

SECOND REGULAR SESSION

# SENATE BILL NO. 1180

92ND GENERAL ASSEMBLY

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INTRODUCED BY SENATORS SHIELDS AND KINDER.

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Read 1st time January 29, 2004, and ordered printed.

TERRY L. SPIELER, Secretary.

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## AN ACT

To amend chapter 172, RSMo, by adding thereto eight new sections relating to life sciences reinvestment districts, with an emergency clause.

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*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Chapter 172, RSMo, is amended by adding thereto eight new sections, to be known as sections 172.950, 172.952, 172.954, 172.956, 172.958, 172.960, 172.962, and 172.964, to read as follows:

**172.950. Sections 172.950 to 172.964 shall be known and may be cited as the "Life Sciences Reinvestment Act".**

**172.952. As used in sections 172.950 to 172.964, the following terms shall mean:**

**(1) "Collecting officer", the officer of a tax district responsible for receiving and processing payments in lieu of taxes or new tax revenue from taxpayers or the department of revenue;**

**(2) "Commissioner", a member of a reinvestment commission;**

**(3) "District" or "life sciences reinvestment district", a geographical area established pursuant to section 172.954 to enhance the capacity for research, development, technology transfer, and technology commercialization;**

**(4) "Life sciences company", any for-profit company, including related facilities, whose primary activities are in agriculture, pharmaceuticals, biomedical, health care, or food ingredients, and whose Standard Industrial Code classifications, the primary standard industrial classification as such classifications are defined in the 1987 edition of the Standard Industrial Classification Manual as prepared by the Executive Office of the President, Office of Management and Budget, are 202, 207, 283, 284, 286, 287, 384, 806, 807, 2491, 2824, 3821, 3826, 3851, 7372, 7374, 8731, or 8734, or corresponding or similar such codes of the North American Industry Classification System (NAICS), as determined by**

the research board;

(5) "Life sciences institution", any public or private not-for-profit academic, research, or health care institution or organization engaged in competitive research, development, technology transfer, workforce development, or technology commercialization in the life sciences, or any not-for-profit entity engaged in activities designed to advance the life sciences industry;

(6) "Life sciences project", any project undertaken by a life sciences institution located within a life sciences reinvestment district for the primary purpose of increasing the capacity for researching, developing, transferring, or commercializing life sciences;

(7) "New tax revenue", the total additional revenue from taxes which are imposed on any life sciences company and any individual directly employed by a life sciences company by the department of revenue or any municipality or other taxing district within a life sciences reinvestment district, and which are generated by economic activities of such life sciences company or any individual directly employed by a life sciences company within a district over the amount of such taxes generated by such economic activities within such district in the calendar year prior to the designation of such a district, including state income tax revenues, state sales tax revenues, and real property tax revenues. New tax revenue to the state shall not include revenue captured by or dedicated to an existing or subsequently created state tax increment financing district or arrangement or any existing or subsequently created state economic development incentives. New tax revenue to a municipality or other taxing district shall not include revenue captured by or dedicated to an existing or subsequently created non-state tax increment financing district or arrangement or any existing or subsequently created non-state economic development incentives;

(8) "Ordinance", an ordinance enacted by the governing body of a city, town, village, or county or an order of the governing body of a county whose governing body is not authorized to enact ordinances;

(9) "Payment in lieu of taxes", those state income tax revenues, state sales tax revenues, and estimated revenues from real property of a life sciences company in a life sciences reinvestment district, which taxing districts would have received had the reinvestment district not been established and which would result from levies made after the time of the designation of the district during the time the current equalized value of real property in the district exceeds the total initial equalized value of real property in such area until the designation is terminated;

(10) "Reinvestment commission", a life sciences reinvestment commission established pursuant to section 172.956, RSMo, in each life sciences reinvestment

district and which implements life sciences projects to enhance the capacity for research, development, technology transfer, and technology commercialization;

(11) "Research board", the life sciences research board established pursuant to section 196.1103, RSMo;

(12) "State income tax revenues", the state income tax withheld on behalf of all employees by a life sciences company pursuant to section 143.221, RSMo, at the facility located within a life sciences reinvestment district. The state income tax withholding allowed by this section shall be the department of revenue's estimate of the amount of state income tax withheld by the life sciences company within the district for all employees who are directly employed by the life sciences company;

(13) "State sales tax revenues", the incremental increase in the general revenue portion of state sales tax revenues received pursuant to section 144.020, RSMo, from sales at retail by life sciences companies within a life sciences reinvestment district, excluding sales taxes that are constitutionally dedicated, taxes deposited to the school district trust fund in accordance with section 144.701, RSMo, sales and use taxes on motor vehicles, trailers, boats, and outboard motors, and future sales taxes earmarked by law. The incremental increase in the general revenue portion of state sales tax revenues for an existing or relocated life sciences company shall be the amount that current state sales tax revenue exceeds the state sales tax revenue in the base year as determined by a life sciences reinvestment commission;

(14) "Taxing district", any political subdivision having the power to levy taxes, located within a life sciences reinvestment district and which contains a life sciences company.

172.954. 1. Six life sciences reinvestment districts are hereby established, subject to the following provisions:

(1) One Kansas City area district is established within the geographical area encompassing Jackson, Clay, and Platte counties. In the event any part of a municipality is located within any one of these counties and also encompasses a part of another Missouri county, the entire area encompassed within the city limits of such municipality shall be a part of the geographic area of the Kansas City area district;

(2) One St. Louis area district is established within the geographical area encompassing the city of St. Louis, St. Louis, St. Charles, Jefferson, and Franklin counties. In the event any part of a municipality is located within any one of these counties and also encompasses a part of another Missouri county, the entire area encompassed within the city limits of such municipality shall be a part of the geographic area of the St. Louis area district;

(3) One central Missouri district is established within the geographical area encompassing Phelps, Boone, and Callaway counties. In the event any part of a municipality is located within any one of these counties and also encompasses a part of another Missouri county, the entire area encompassed within the city limits of such municipality shall be a part of the geographic area of the central Missouri area district;

(4) One Springfield area district is established within the geographical area encompassing Greene, Christian, and Webster counties. In the event any part of a municipality is located within any one of these counties and also encompasses a part of another Missouri county, the entire area encompassed within the city limits of such municipality shall be a part of the geographic area of the Springfield area district;

(5) One St. Joseph area district is established within the geographical area encompassing Buchanan and Andrew counties. In the event any part of a municipality is located within any one of these counties and also encompasses a part of another Missouri county, the entire area encompassed within the city limits of such municipality shall be a part of the geographic area of the St. Joseph area district.

(6) One statewide district is established to include all geographical areas not encompassed within the geographical areas encompassed by the Kansas City, St. Louis, central Missouri, Springfield, or St. Joseph area districts.

2. Nothing in this section shall prevent one reinvestment district from collaborating with another reinvestment district to jointly implement life sciences projects. Such collaboration may include the combination of moneys received from taxing districts to implement life sciences projects.

172.956. 1. Each life sciences reinvestment district shall be overseen by a "Life Sciences Reinvestment Commission", which shall consist of a chairperson and four additional commissioners. The chairpersons and commissioners shall be selected according to the following:

(1) Chairpersons and commissioners shall be appointed by the governor with the advice and consent of the senate;

(2) Two commissioners with each reinvestment commission shall be generally familiar with life sciences research and life sciences technology transfer. Such familiarity may include technical or scientific experience in basic, translational, or clinical research and experience with obtaining federal or state intellectual property protection and intellectual property licensing;

(3) Two commissioners within each reinvestment commission shall be generally familiar with life sciences commercialization and life sciences

infrastructure development. Such familiarity may include finance experience for life sciences reduction to practice, proof of concept, and achieving federal Food and Drug Administration approvals, and development of physical environments for conducting life sciences research such as wet laboratory space, clean room facilities, and biohazard facilities;

(4) No commissioner shall serve more than two consecutive full four-year terms;

(5) Each commissioner shall be a qualified voter of the state of Missouri and a resident of either the county or city not within a county within the relevant district;

(6) The appointment of a person to the life sciences research committee created by executive order 01-10 issued by the governor on July 23, 2001, or the life sciences research board created pursuant to section 196.1103, RSMo, shall not disqualify a person from serving as a commissioner, either contemporaneously or later, on a reinvestment commission;

(7) Commissioners shall receive no salary or other compensation for their services as commissioners, but shall receive necessary travel and other expenses incurred while actually engaged in the discharge of their official duties; and

(8) In the event a commissioner or family member of a commissioner is directly or indirectly financially interested in the implementation of any life sciences project by the reinvestment commission, such commissioner shall disclose such information to the reinvestment commission and abstain from any formal or informal actions regarding such life sciences project. Such direct or indirect financial interest shall not preclude such interested commissioner from conducting other unrelated reinvestment commission business.

2. In the event a vacancy exists or in the event a reinvestment commissioner's term expires, a successor commissioner shall be appointed by the governor, and if no person is so selected within sixty days of the creation of the vacancy, the unexpired term of such commissioner may be filled by a majority vote of the remainder of the commissioners, provided that such successor commissioner shall meet the requirements set forth in this section. Commissioners appointed to fill unexpired terms shall only serve until such unexpired term expires. Pending any such appointment to fill any vacancy, the remaining commissioners may conduct reinvestment commission business.

3. Upon the vacancy of a chairperson appointed by the governor, the reinvestment commission shall elect a new chairperson from its commissioners. The reinvestment commission may appoint such officers and employ such employees as they may require for the performance of their duties

and may fix and determine the qualifications, duties, and compensation of such officers and employees consistent with the provisions of sections 172.950 to 172.964, RSMo.

4. No action of the reinvestment commission shall be binding unless taken at a meeting at which at least a majority of the commissioners then appointed vote in favor of such action.

172.958. 1. The reinvestment commission shall review and prioritize applications for life sciences projects received from life sciences institutions within a life sciences reinvestment district. Applications for life sciences projects shall include details of the goals related to the life sciences project, the steps considered necessary to achieve such goals, and methods to measure success of the life sciences project.

2. The reinvestment commission shall submit the reviewed and prioritized applications for life sciences projects to the research board for approval. With the application, the reinvestment commission shall supply to the research board an application fee equivalent to the actual cost of expert review, not to exceed ten thousand dollars. Upon approval by the research board, the reinvestment commission may disburse funds received from taxing districts for the approved life sciences project.

172.960. 1. The department of revenue and each taxing district within the district shall, by ordinance or order, provide for the collection and transfer, by the collecting officer and on a regular basis as prescribed by such ordinance or order, of all new tax revenue and payments in lieu of taxes attributable to any life sciences company or any employees of a life sciences company located within the taxing district to the reinvestment commission where the revenue was generated.

2. Moneys transferred to a reinvestment commission shall be used exclusively by the reinvestment commission of the district where generated for the purpose of funding life sciences projects. Funds received by a reinvestment commission may be used for purposes authorized in sections 172.950 to 172.964 and shall be subject to the restrictions of sections 172.950 to 172.964, including but not limited to, the costs of life sciences project review, personnel, supplies, equipment, and renovation or construction of physical facilities. These moneys shall supplement existing services and funding and shall not be used to supplant any existing public funding for life sciences projects pursuant to sections 196.1100 to 196.1130, RSMo, or any other public law, funding, or appropriation.

3. Moneys transferred to the reinvestment commission shall be used to increase the capacity for life sciences research, development, technology transfer, life sciences workforce development, and technology commercialization at life

sciences institutions within life sciences reinvestment districts.

4. Moneys transferred to the reinvestment commission that are not distributed by the reinvestment commission in any fiscal year, if any, shall be held in reserve by the reinvestment commission.

5. Upon approval of the research board pursuant to section 172.958, RSMo, the reinvestment commission may implement life sciences project applications by:

(1) Awarding and entering into grants or contracts related to increasing Missouri's capacity for research, development, life sciences workforce development, technology transfer, and technology commercialization at life sciences institutions consistent with the provisions of sections 172.950 to 172.964, RSMo;

(2) Contracting for administrative and support services;

(3) Leasing or acquiring facilities and equipment;

(4) Employing administrative staff; and

(5) Receiving, retaining, holding, investing, disbursing, or administering any moneys that it receives from any source.

6. The reinvestment commission shall utilize as much of the moneys as reasonably possible for building capacity at life sciences institutions to enhance research, development, technology transfer, workforce development, and technology commercialization capabilities rather than for administrative expenses. The reinvestment commission shall not in any fiscal year expend more than two percent of its total moneys and of the moneys that it has in reserve or has received from other sources for its own administrative expenses, provided, however, that the general assembly by appropriation to a reinvestment commission may authorize a limited amount of additional moneys to be expended for administrative costs.

7. Grant or contract awards made shall provide for the reimbursement of costs. Whether reimbursement of specific costs is allowed depends on the application of a four-part test balancing, which shall include:

(1) The reasonableness of the cost;

(2) The connection to the grant or contract;

(3) The consistency demonstrated in assigning costs to the grant or contract;

and

(4) Conformance with the specific terms and conditions of the award or contract.

Reinvestment commissions may from time to time issue rules and guidelines consistent with such four-part test and provide grant and contract recipients with a list or other explanation of regularly permitted costs.

8. Funding of life sciences projects shall be limited by Missouri laws governing the expenditure of public funds.

172.962. 1. Each reinvestment commission shall make provision for and secure from a public accounting firm an annual audit of its financial affairs and the moneys expended by the reinvestment commission. Such audit shall be performed on a fiscal year basis, and the cost of such audit shall not be considered as an administrative expense for purposes of subsection 6 of section 172.960. The reinvestment commissions shall make copies of each audit available to the public.

2. Every three years the reinvestment commissions, with the assistance of staff or independent contractors as determined by the reinvestment commissions, shall prepare comprehensive reports assessing the work and progress of enhancing, individually, life sciences research capacity, life sciences development capacity, life sciences technology transfer capacity, workforce development, and life sciences commercialization capacity. Such assessment reports shall analyze the impact of the life sciences programs approved by the reinvestment commissions, grants, and contracts performed, shall be provided to the governor and the general assembly, and shall be available to the public. The cost of such assessment reports shall not be considered an administrative expense for purposes of subsection 6 of section 172.960.

172.964. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in sections 172.950 to 172.964 shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2004, shall be invalid and void.

Section B. Because immediate action is necessary to provide funding for life sciences research, development, technology transfer, and technology commercialization, section A of this act is deemed necessary for the immediate preservation of the public health, welfare, peace, and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and section A of this act shall be in full force and effect upon its passage and approval.